

REMARKS

Claims 1, 5, and 6 are currently pending.

The Examiner rejects the claims as anticipated under 35 U.S.C. Section 102, by US. Patent 6,743,212. Applicant has amended the claims and Applicant respectfully submits the claimed device is not found in the reference.

Applicant submits that the structural joint seal now claimed is not found or disclosed within the '212 reference (Cole reference). The Cole reference teaches of a feminine hygiene product, a tampon for absorbing menstrual flow. The present application does not teach, suggest, reference, imply, nor claim a tampon. Applicant submits that one of ordinary skill in the structural joint art (buildings, bridges, parking garages, pavement, etc) would never look to utilize tampons for a structural joint seal. More particularly, the area of use for tampons, that of the female vagina, cannot be plausibly identified as a joint as utilized in the present invention and claims. Additionally, there is no showing of any tempting to utilize such tampons in the structural joint sealing field. Tampons, further, are single use, temporary, disposable, and which have no use in a structural building or pavement context, where the duration of use would be measured in years.

Since the '212 reference does not recite each and every element of the amended Claims, therefore the rejection under Section 102 should be withdrawn. Applicant respectfully requests withdrawal of the rejection, and forwarding of a Notice of Allowance to the undersigned.

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Application No.: 10/679,059
Amendment Dated July 11, 2005

Attorney Docket No.: MOF-13-CON

If the Examiner has any questions or comments that would speed prosecution of this case, the Examiner is invited to call the undersigned at 260/484-4526.

Respectfully submitted,



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RJK/

Encs:
Amendments to the Claims
(1 Sheets; pp. 4)
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on: July 11, 2005.

Randall J. Knuth, Registration No. 34,644

Name of Registered Representative



Signature

July 11, 2005

Date